

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-25-T - ORDER NO. 2003-714
DECEMBER 10, 2003

IN RE: Application of Barbara C. Joyner d/b/a Joyner)	ORDER GRANTING
Transfer Company, Post Office Box 401,)	RECONSIDERATION
Georgetown, SC 29442 to Transfer Class E)	
Certificate of Public Convenience and)	
Necessity No. 671-A to Allegiance Moving)	
Company, Inc.)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on separate Petitions for Reconsideration or Rehearing ("Petitions") filed by Barbara C. Joyner d/b/a Joyner Transfer Company ("Joyner") and the Commission Staff. The Petitions request reconsideration or rehearing of a portion of the Commission's decision set forth in Commission Order No. 2003-549, dated September 8, 2003.

By Commission Order No. 2003-549, the Commission approved the transfer of Class E Certificate of Public Convenience and Necessity ("Certificate of PC&N") No. 671-A from Joyner to Allegiance Moving Company, Inc. ("Allegiance"). While the Commission approved the transfer of Certificate of PC&N No. 671-A from Joyner to Allegiance, the Commission denied a motion by Allegiance to clarify the scope of authority contained in Certificate of PC&N No. 671-A. In denying Allegiance's Motion to Clarify, the Commission stated its interpretation of the scope of authority contained in

the Certificate of PC&N. The Petitions take exception with a portion of the interpretation of the scope of authority as stated in Order No. 2003-549.

In Order No. 2003-549, the Commission, in interpreting the scope of authority, stated as follows

The first part of the scope reads “[b]etween points and places in Clarendon, Georgetown, Horry, and Williamsburg Counties and between points and places in these counties and points and places in South Carolina.” The language from the scope allows for the movement of shipments that originate and terminate within one of the four listed counties. Further, the language allows for shipments (1) that either originate within one of the four listed counties and terminate elsewhere in South Carolina or (2) that originate elsewhere in South Carolina and terminate within one of the four listed counties. The use of the word “between” indicates to this Commission that shipments may move in either direction; if only one direction had been intended, then this Commission is of the opinion that the scope would have used the words “from” and “to” to indicate movement in one direction only.

The second part of the scope reads “and between points and places in Charleston County and points and places outside of Charleston County in South Carolina.” Under this part of the authority, a shipment must either (1) originate in Charleston County and terminate elsewhere in South Carolina which is outside of Charleston County or (2) originate outside of Charleston County and terminate within Charleston County. Under the language of the approved scope, only one terminus of a move may be in Charleston County. The use of the conjunction “and” in the description requires that both conditions on either side of the “and” be met. Thus, for a shipment to meet the scope as defined, the shipment must have one point, either originating or terminating, in Charleston County, with the other point, either originating or terminating, outside of Charleston County in South Carolina. It is noted that this part of the scope does not allow for shipments that originate and terminate wholly within Charleston County as such a shipment would not fall within the description of “points

and places within Charleston County” and “points and places outside of Charleston County in South Carolina.”

The clarification requested by Allegiance does not fall within the scope of authority as issued to Joyner. Allegiance’s clarification would enlarge the scope of authority beyond what was issued. This Commission cannot in the context of the instant proceeding enlarge the scope of authority as no notice has been given that such action would be considered. Further, the fact that both Joyner and Allegiance may have understood the scope to be different that what is herein stated does not persuade this Commission to enlarge the scope of authority. Therefore, the Commission denies Allegiance’s Motion to Clarify the scope, and the scope of authority of Certificate of PC&N No. 671-A shall remain as issued.

Neither Joyner nor the Commission Staff take exception in their respective Petitions with the first part of the Commission’s interpretation of the scope of authority. However, both Joyner and the Commission Staff request reconsideration or rehearing on the second part of the authority dealing with the movement of shipments in Charleston County. Joyner and the Commission Staff note that Joyner has operated for more than fifty years, and that during those fifty years, Joyner has performed moves which originate and terminate wholly within Charleston County. Joyner asserts that the Commission’s interpretation of the scope of authority reduces the authority under which Joyner has operated for over fifty years.

Upon consideration of the Petitions and the record from the hearing, the Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Commission issued its Order No. 2003-549 on September 8, 2003, and that Order approved a transfer of Class E Certificate of PC&N No. 671-A from Joyner to Allegiance.

2. Order No. 2003-549 also interpreted the scope of authority contained in Class E Certificate of PC&N No. 671-A.

3. The interpretation of the scope of authority of Class E Certificate of PC&N No. 671-A contained in Order No. 2003-549 was materially different from the actual manner in which Joyner had operated under the certificate for over fifty years. The difference being that, with respect to the movement of shipments involving Charleston County, Order No. 2003-549 stated that the scope of authority did not allow for a move to be made wholly within Charleston County.

4. Joyner presented testimony at the hearing on June 4, 2003, that it had completed moves that were wholly within Charleston County, i.e. that the originating and terminating points of the move were both within Charleston County.

5. By its Petition, Joyner states that it has been in operation for over fifty years and that it has moved shipments that originate and terminate wholly within Charleston County during the time of its operations.

6. As testified to at the June 4, 2003, hearing on this matter, Class E Certificate of PC&N No. 671-A is an old certificate having been originally issued in the 1940's.

7. The language used in Class E Certificate of PC&N is archaic and is confusing.

8. Because the language used in Class E Certificate of PC&N No. 671-A is confusing, the Commission grants reconsideration of Order No. 2003-549.

9. Upon reconsideration, the Commission finds that the archaic, confusing language of Class E Certificate of PC&N No. 671-A should be clarified. Therefore, the Commission finds that Allegiance's Motion to Clarify the scope of authority in Class E Certificate of PC&N No. 671-A should be granted.

10. Upon clarification, the Commission finds that the scope of authority in Class E Certificate of PC&N No. 671-A should clearly reflect the operations as Joyner has conducted their operations for the past fifty plus years and that the scope of authority should conform with those operations.

11. Accordingly, the Commission finds that the scope of authority of Class E Certificate of PC&N No. 671-A permits movement of household goods that (1) originate in any of the five counties listed in the certificate and go to points and places in South Carolina and (2) originate anywhere in South Carolina and return to any of the five counties listed in the certificate.

CONCLUSIONS OF LAW

1. The Commission concludes that the Petitions of Joyner and the Commission Staff requesting reconsideration of Order No. 2003-549 should be granted.

2. The Commission concludes that the language contained in Class E Certificate of PC&N No. 671-A is archaic and confusing and that Allegiance's Motion to Clarify that language of the certificate should be granted.

3. The language contained in the scope of authority of Class E Certificate of PC&N No. 671-A should be clarified so that the scope of authority reflects the operations as Joyner has conducted its operations over the past fifty plus years.

4. In reflecting the operations of Joyner of the past fifty plus years, the scope of authority, with respect to the second part of the authority concerning the movement of shipments related to Charleston County, shall be read to permit the movement of household goods wholly within Charleston County. Overall, the scope of authority shall permit the movement of shipments that (1) originate in any of the five counties listed in the certificate and go to points and places in South Carolina and (2) originate anywhere in South Carolina and return to any of the five counties listed in the certificate.

IT IS THEREFORE ORDERED THAT:

1. The Petitions for Reconsideration filed by Joyner and the Commission Staff are granted, and the Commission grants reconsideration of Order No. 2003-549 as set forth herein.

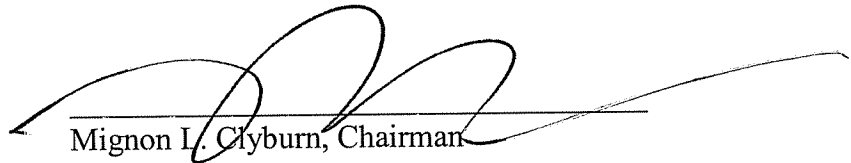
2. In granting reconsideration of Order No. 2003-549, the Commission clarifies the scope of authority contained in Class E Certificate of PC&N No. 671-A by stating that the scope of authority should reflect the operations of Joyner as conducted over the past fifty plus years and specifically that the scope of authority includes the movement of shipments wholly within Charleston. The effect of this clarification is that

the scope of authority permits the movement of shipments that (1) originate in any of the five counties listed in the certificate and go to points and places in South Carolina and (2) originate anywhere in South Carolina and return to any of the five counties listed in the certificate.

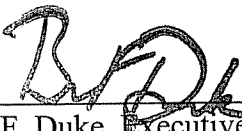
3. Other than that the reconsideration and clarification of Order No. 2003-549 related to the scope of authority of Class E Certificate No. 671-A as approved herein, all other respects of Order No. 2003-549 remain in effect.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Mignon L. Clyburn, Chairman

ATTEST:


Bruce F. Duke, Executive Director

(SEAL)